

By: Phillips

H.B. No. 3254

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of a motor carrier and the enforcement of motor carrier regulations; authorizing the imposition of a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 171.1011(g-7), Tax Code, is amended to read as follows:

(g-7) A taxable entity that is a qualified courier and logistics company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to nonemployee agents for the performance of delivery services on behalf of the taxable entity. For purposes of this subsection, "qualified courier and logistics company" means a taxable entity that:

(1) receives at least 80 percent of the taxable entity's annual total revenue from its entire business from a combination of at least two of the following courier and logistics services:

(A) expedited same-day delivery of an envelope, package, parcel, roll of architectural drawings, box, or pallet;

(B) temporary storage and delivery of the property of another entity, including an envelope, package, parcel, roll of architectural drawings, box, or pallet; and

(C) brokerage of same-day or expedited courier and logistics services to be completed by a person or entity under a

1 contract that includes a contractual obligation by the taxable
2 entity to make payments to the person or entity for those services;

3 (2) during the period on which margin is based, is
4 registered as a motor carrier under Chapter 643, Transportation
5 Code, and if the taxable entity operates on an interstate basis, is
6 registered as a motor carrier or broker under the motor vehicle
7 registration system established under 49 U.S.C. Section 14504a or a
8 similar federal registration program that replaces that system
9 ~~[unified carrier registration system, as defined by Section~~
10 ~~643.001, Transportation Code,]~~ during that period;

11 (3) maintains an automobile liability insurance
12 policy covering individuals operating vehicles owned, hired, or
13 otherwise used in the taxable entity's business, with a combined
14 single limit for each occurrence of at least \$1 million;

15 (4) maintains at least \$25,000 of cargo insurance;

16 (5) maintains a permanent nonresidential office from
17 which the courier and logistics services are provided or arranged;

18 (6) has at least five full-time employees during the
19 period on which margin is based;

20 (7) is not doing business as a livery service, floral
21 delivery service, motor coach service, taxicab service, building
22 supply delivery service, water supply service, fuel or energy
23 supply service, restaurant supply service, commercial moving and
24 storage company, or overnight delivery service; and

25 (8) is not delivering items that the taxable entity or
26 an affiliated entity sold.

27 SECTION 2. Sections 643.054(a-2) and (a-3), Transportation

1 Code, are amended to read as follows:

2 (a-2) The department may deny a registration if the
3 applicant [~~applicant's business~~] is owned, operated, managed, or
4 otherwise controlled by or affiliated with a person, including [~~the~~
5 ~~applicant,~~] a [~~relative,~~] family member, corporate officer,
6 entity, or shareholder, that [~~whom~~] the Department of Public Safety
7 has determined has:

8 (1) an unsatisfactory safety rating under 49 C.F.R.
9 Part 385; or

10 (2) multiple violations of Chapter 644, a rule adopted
11 under that chapter, or Subtitle C.

12 (a-3) The department may deny a registration if the
13 applicant is owned, [~~a motor carrier whose business is~~] operated,
14 managed, or otherwise controlled by or affiliated with a person,
15 including a [~~an owner, relative,~~] family member, corporate officer,
16 entity, or shareholder, that [~~whom the Department of Public Safety~~
17 ~~has determined has~~]:

18 (1) owned, operated, managed, or otherwise controlled
19 a motor carrier that the Federal Motor Carrier Safety
20 Administration has placed out of service for unacceptable safety
21 compliance [~~an unsatisfactory safety rating under 49 C.F.R. Part~~
22 ~~385~~]; or

23 (2) has unpaid administrative penalties assessed
24 under this chapter or Subtitle E [~~multiple violations of Chapter~~
25 ~~644, a rule adopted under that chapter, or Subtitle C~~].

26 SECTION 3. Section 643.056, Transportation Code, is amended
27 by adding Subsection (c) to read as follows:

1 (c) The department may deny a supplement to a motor
2 carrier's application for registration if the motor carrier is
3 owned, operated, managed, or otherwise controlled by or affiliated
4 with a person, including a family member, corporate officer,
5 entity, or shareholder, that has unpaid administrative penalties
6 assessed under this chapter or Subtitle E.

7 SECTION 4. Section 643.058, Transportation Code, is amended
8 by adding Subsections (d) and (e) to read as follows:

9 (d) A motor carrier may not renew a registration that has
10 been expired for more than 180 days. The motor carrier may obtain a
11 new registration by complying with the requirements and procedures
12 for obtaining an original registration under this chapter.

13 (e) The department may deny a motor carrier's application to
14 renew a registration if the motor carrier is owned, operated,
15 managed, or otherwise controlled by or affiliated with a person,
16 including a family member, corporate officer, entity, or
17 shareholder, that:

18 (1) the Department of Public Safety has determined
19 has:

20 (A) an unsatisfactory safety rating under 49
21 C.F.R. Part 385; or

22 (B) multiple violations of Chapter 644, a rule
23 adopted under that chapter, or Subtitle C;

24 (2) owned, operated, managed, or otherwise controlled
25 a motor carrier that the Federal Motor Carrier Safety
26 Administration has placed out of service for unacceptable safety
27 compliance; or

1 (3) has unpaid administrative penalties assessed
2 under this chapter or Subtitle E.

3 SECTION 5. Subchapter B, Chapter 643, Transportation Code,
4 is amended by adding Section 643.0585 to read as follows:

5 Sec. 643.0585. REREGISTRATION. (a) If a motor carrier's
6 registration has been revoked, the motor carrier may apply to the
7 department for reregistration not later than the 180th day after
8 the date the registration was revoked.

9 (b) An application for reregistration must be submitted on a
10 form prescribed by the department and accompanied by:

11 (1) a \$10 fee for each vehicle requiring registration;
12 (2) evidence of insurance or financial responsibility
13 as required by Section 643.103(a); and

14 (3) any insurance filing fee required under Section
15 643.103(c).

16 (c) The department may deny a motor carrier's application
17 for reregistration if the motor carrier is owned, operated,
18 managed, or otherwise controlled by or affiliated with a person,
19 including a family member, corporate officer, entity, or
20 shareholder, that:

21 (1) the Department of Public Safety has determined
22 has:

23 (A) an unsatisfactory safety rating under 49
24 C.F.R. Part 385; or

25 (B) multiple violations of Chapter 644, a rule
26 adopted under that chapter, or Subtitle C;

27 (2) owned, operated, managed, or otherwise controlled

1 a motor carrier that the Federal Motor Carrier Safety
2 Administration has placed out of service for unacceptable safety
3 compliance; or

4 (3) has unpaid administrative penalties assessed
5 under this chapter or Subtitle E.

6 SECTION 6. Section 643.153(d), Transportation Code, is
7 amended to read as follows:

8 (d) A motor carrier that is required to register under
9 Subchapter B and that transports household goods shall file a
10 tariff with the department that establishes maximum charges for all
11 transportation services [~~between two or more municipalities~~]. A
12 motor carrier may comply with this requirement by filing, in a
13 manner determined by the department, a copy of the carrier's tariff
14 governing interstate transportation services [~~on a highway between~~
15 ~~two or more municipalities~~]. The department shall make tariffs
16 filed under this subsection available for public inspection [~~at the~~
17 ~~department~~].

18 SECTION 7. Section 643.252(a), Transportation Code, is
19 amended to read as follows:

20 (a) The department may suspend, revoke, or deny a
21 registration issued under this chapter or place on probation a
22 motor carrier whose registration is suspended if a motor carrier:

23 (1) fails to maintain insurance or evidence of
24 financial responsibility as required by Section 643.101(a), (b), or
25 (c) [~~or (d)~~];

26 (2) fails to keep evidence of insurance in the cab of
27 each vehicle as required by Section 643.103(b);

1 (3) fails to register a vehicle requiring
2 registration;

3 (4) violates any other provision of this chapter or
4 Chapter 621, 622, or 623;

5 (5) knowingly provides false information on any form
6 filed with the department under this chapter or Chapter 621, 622, or
7 623; [~~or~~]

8 (6) violates a rule or order adopted under this
9 chapter or Chapter 621, 622, or 623; or

10 (7) is owned, operated, managed, or otherwise
11 controlled by or affiliated with a person, including a family
12 member, corporate officer, entity, or shareholder:

13 (A) whose registration has previously been
14 revoked or denied; or

15 (B) that has unpaid administrative penalties
16 assessed under this chapter or Subtitle E.

17 SECTION 8. Sections 643.2525(c), (e), (k), and (l),
18 Transportation Code, are amended to read as follows:

19 (c) If not later than the 26th day after the date the notice
20 is mailed the department receives a written request for a hearing,
21 the department shall set a hearing and provide the carrier [~~give~~
22 notice of the hearing and the opportunity to present evidence at the
23 hearing [~~to the carrier~~]. The hearing shall be conducted by an
24 administrative law judge of the State Office of Administrative
25 Hearings.

26 (e) If a hearing set under Subsection (c) is held and
27 evidence is presented at the hearing, the [~~The~~] administrative law

1 judge shall make findings of fact and conclusions of law and
2 promptly issue to the director a proposal for a decision as to the
3 occurrence of the violation and the administrative penalties or
4 sanctions.

5 (k) If the motor carrier is required to pay a penalty or cost
6 under Subsection (f), failure to pay the penalty or cost before the
7 61st day after the date the requirement becomes final is a violation
8 of this chapter and may result in an additional penalty, revocation
9 or suspension of a motor carrier registration, or denial [~~of~~
10 ~~renewal~~] of a motor carrier registration renewal or reregistration.

11 (l) A motor carrier that is required to pay a penalty, cost,
12 fee, or expense under this section or Section 643.251 is not
13 eligible for a registration, reregistration, [reinstatement] or
14 registration renewal [of a registration] under this chapter until
15 all required amounts have been paid to the department.

16 SECTION 9. The heading to Section 643.2526, Transportation
17 Code, is amended to read as follows:

18 Sec. 643.2526. APPEAL OF DENIAL OF REGISTRATION, RENEWAL,
19 OR REREGISTRATION [~~REINSTATEMENT~~].

20 SECTION 10. Section 643.2526(a), Transportation Code, is
21 amended to read as follows:

22 (a) Notwithstanding any other law, a denial of an
23 application for registration, renewal of registration, or
24 reregistration [~~reinstatement of registration~~] under this chapter
25 is not required to be preceded by notice and an opportunity for
26 hearing.

27 SECTION 11. The heading to Chapter 645, Transportation

1 Code, is amended to read as follows:

2 CHAPTER 645. UNIFIED CARRIER [~~SINGLE STATE~~] REGISTRATION

3 SECTION 12. Section 645.001, Transportation Code, is
4 amended to read as follows:

5 Sec. 645.001. FEDERAL UNIFIED [~~MOTOR~~] CARRIER
6 REGISTRATION; DEFINITION. (a) In this chapter, "unified carrier
7 registration plan and agreement" means the federal unified carrier
8 registration plan and agreement provided by 49 U.S.C. Section
9 14504a.

10 (b) The Texas Department of Motor Vehicles may, to the
11 fullest extent practicable, participate in [~~a federal motor carrier~~
12 ~~registration program under~~] the unified carrier registration plan
13 and agreement [~~system as defined by Section 643.001 or a single~~
14 ~~state registration system established under federal law~~].

15 SECTION 13. Section 645.002(b), Transportation Code, is
16 amended to read as follows:

17 (b) The department may adopt rules regarding the method of
18 payment of a fee required under the unified carrier registration
19 plan and agreement [~~this chapter~~]. The rules may:

20 (1) authorize the use of an escrow account described
21 by Subsection (c), an electronic funds transfer, or a valid credit
22 card issued by a financial institution chartered by a state or the
23 United States or by a nationally recognized credit organization
24 approved by the department; and

25 (2) require the payment of a discount or service
26 charge for a credit card payment in addition to the fee.

27 SECTION 14. Section 645.003, Transportation Code, is

1 amended to read as follows:

2 Sec. 645.003. ENFORCEMENT RULES. (a) The department may
3 ~~[shall]~~ adopt rules ~~[that are consistent with federal law]~~
4 providing for administrative penalties ~~[and sanctions]~~ for a
5 failure to register or submit information and documents under ~~[as~~
6 ~~required by]~~ the unified carrier registration plan and agreement
7 ~~[system or single state registration system]~~ or for a violation of
8 the unified carrier registration plan and agreement ~~[this chapter~~
9 ~~or a rule adopted under this chapter in the same manner as~~
10 ~~Subchapter F, Chapter 643]~~.

11 (b) The notice, hearing, and other procedural requirements
12 of Section 643.2525 apply to the imposition of an administrative
13 penalty under this section as if the action were being taken under
14 that section.

15 (c) The amount of an administrative penalty imposed under
16 this section is calculated in the same manner as the amount of an
17 administrative penalty imposed under Section 643.251.

18 SECTION 15. Sections 645.004(a) and (c), Transportation
19 Code, are amended to read as follows:

20 (a) A person commits an offense if the person fails to:

21 (1) ~~[violates a rule adopted under this chapter, or~~
22 ~~[(2) fails to]~~ register as required by the unified
23 carrier registration plan and agreement; or

24 (2) submit information and documents as required by
25 the unified carrier registration plan and agreement ~~[a vehicle~~
26 ~~required to be registered under this chapter]~~.

27 (c) Each day a violation ~~[of a rule]~~ occurs is a separate

1 offense under this section.

2 SECTION 16. Sections 643.001(7-a), 643.064(a), and
3 645.002(a), Transportation Code, are repealed.

4 SECTION 17. (a) The changes in law made by this Act apply
5 only to an offense or violation committed on or after the effective
6 date of this Act. An offense or violation committed before the
7 effective date of this Act is governed by the law in effect on the
8 date the offense or violation was committed, and the former law is
9 continued in effect for that purpose. For purposes of this section,
10 an offense or violation was committed before the effective date of
11 this Act if any element of the offense or violation occurred before
12 that date.

13 (b) The change in law made by this Act relating to an
14 application filed under Chapter 643, Transportation Code, applies
15 only to an application filed under that chapter on or after the
16 effective date of this Act. An application filed before that date
17 is governed by the law in effect on the date the application was
18 filed, and the former law is continued in effect for that purpose.

19 SECTION 18. This Act takes effect September 1, 2017.